

REMARKS

The following remarks are submitted to be fully responsive to the Final Office Action mailed November 14, 2005. It is further submitted that this response is timely filed within the three-month shortened-statutory period. Accordingly, no fee for an extension of time is believed necessary. Should any fee be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

As an initial matter please amend claim 5 to depend from claim 1 rather than claim 4 because claim 4 was previously cancelled.

The Examiner's indication of allowable subject matter recited in dependent claims 5-7 and allowance of claims 13-15 are noted with appreciation. The subject matter indicated as allowable has not been incorporated into any of the rejected independent claims at this time because it is respectfully submitted that independent claims 1 and 8 recite a composition and method, respectively, that are distinct from the prior art of record.

Claims 1-3 and 8 are rejected under 35 U.S.C. §102(b), as being anticipated by U.S. patent No. 4,287,115 to Legler et al. The rejection is respectfully traversed.

The Legler et al. reference discloses thermosettable resins including epoxy resins, polyester resins, polyurethane resins, vinyl ester resins and the like. As explained throughout the Legler et al. reference, curing agents or systems are used to harden or cure such resins by a chemical reaction. Accordingly, it is respectfully submitted that the Legler et al. reference discloses a two-part thermoset resin.

In contrast, independent claims 1 and 8 recite a one-part polymer grout composition. A one-part polymer grout composition is defined at page 4, lines 21-24 of the present specification. Specifically, "one-part polymer composition" is meant to indicate a grout composition that hardens, or cures, via the evaporation of water, rather than via a chemical reaction between two parts. It is therefore respectfully submitted that the Legler et al. reference cannot anticipate independent claims 1 and 8, and the dependent claims thereof because this reference does not disclose a one-part polymer grout composition as presently recited in claims 1 and 8.

Dependent claims 9-12 are rejected under 35 U.S.C. §103(b), as being unpatentable over U.S. patent No. 4,287,115 to Legler et al. Claims 9-12 depend from independent claim 8. Because the Legler et al. reference is believed deficient in disclosing a one-part polymer grout compositions as explained above, claims 9-12 are believed patentable at least in that they depend from claim 8. Withdrawal of the rejection of record is therefore respectfully requested.

In view of the above remarks, it is respectfully submitted that the claims and the present application are in condition for allowance, which allowance is earnestly solicited. In the event that a phone conference between the Examiner and the undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9813.

Respectfully Submitted,

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